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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,452	11/11/2003	William Albert Charette	600.1233	6695
23280	7590	03/04/2005	EXAMINER	
DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018			EVANISKO, LESLIE J	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/705,452	CHARETTE ET AL.
	Examiner Leslie J. Evanisko	Art Unit 2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 December 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 and 11-18 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 and 11-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 November 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12-03-2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. It is noted by the Examiner that the present application is a divisional of U.S. Application No. 10/213,534. It is additionally noted that a restriction requirement was set forth in that parent application, which resulted in the filing of the present divisional application. However, it is also noted by the Examiner that the amendment dated December 3, 2004 significantly changed the scope of the claims from those claims presented at the time the restriction was made. Therefore, under the guidelines of MPEP 804.01(B), the following double patenting rejection is deemed to be appropriate.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-7 and 11-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,672,209 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the method for attaching a printing plate to a plate cylinder as recited in US '209 teaches or at least renders obvious the apparatus including the plate cylinder and tucking device recited in claims 1-7 and 11-18. Note the method in US '209 includes a plate cylinder having a gap for the printing plate and a tucker bar including at least one magnet creating the repulsive magnetic force and an actuator for moving the tucker bar. See, in particular, claims 1 and 3-5 of US '209.

With respect to claims 2, 12, and 18, note claim 6 of US '209.

With respect to claim 3, note claim 7 of US '209.

With respect to claim 4, note claim 8 of US '209.

With respect to claim 5, note claim 9 of US '209.

With respect to claim 6, note claim 10 of US '209.

With respect to claim 7, note claim 11 of US '209.

With respect to claims 11, 15, and 18, note claims 1 and 3 of US '209 in particular.

With respect to claims 13-14 and 16-17, although US '209 does not specifically claim a blanket cylinder interacting with the plate cylinder or the press being a web printing press, note that web based printing press having a blanket cylinder in contact with a plate cylinder is well known and

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conventional in the art. Therefore, it would have been obvious to one of ordinary skill in the art to use the method of US '209 in a web printing press including a blanket cylinder in contact with a plate cylinder to provide a simple method for mounting the plate on the cylinder.

Allowable Subject Matter

4. Claims 1-7 and 11-18 are rejected under double patenting, but would be allowable if the double patenting rejection is properly overcome.

5. The following is a statement of reasons for the indication of allowable subject matter:

With respect to claim 1 in particular, the prior art of record fails to teach or fairly suggest a printing press including a tucking device for tucking a printing plate into a gap on a plate cylinder having all of the structure as recited, in combination with and particularly including, at least one magnetic for creating a repulsive magnetic force at the tucking surface.

With respect to claims 11 and 18 in particular, the prior art of record fails to teach or fairly suggest a printing press including a tucking device for tucking a printing plate into a gap on a plate cylinder having all of the structure as recited, in combination with and particularly including, having an actuator connected to the tucking bar for moving the tucking bar and creating a force of the tucker bar on the printing plate and the tucker bar having at

least one magnet for creating a magnetic force so as to increase the force of the tucker bar acting on the printing plate.

Response to Arguments

6. Applicant's arguments with respect to claims 1-7 and 11-18 have been considered but are moot in view of the new ground(s) of rejection. Note the newly presented double patenting rejection above.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on M-Th 7:30 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H. Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leslie J. Evanisko
Leslie J. Evanisko
Primary Examiner
Art Unit 2854

lje
March 1, 2005